

Atty Docket No.
406.0005CIP



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OFFICE OF PETITIONS

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Poier et al.
Serial No. : 09/932,461 Group Art Unit: 2155
Filed : August 20, 2001 Examiner: not yet assigned
For : METHOD AND APPARATUS FOR DATA COMMUNICATION
BETWEEN A PLURALITY OF PARTIES

DECLARATION OF JENNIFER ERIN LONG

I, **JENNIFER ERIN LONG**, of the city of Toronto, in the province of Ontario, in the country of Canada, MAKE OATH AND SAY:

1. I am the Technical Assistant at Orange & Chari, a patent and trademark firm in Toronto, Canada handling patent matters relating to the prosecution of the applications entitled "Method and Apparatus for Data Communication between a Plurality of Parties" and "System and Method of Provisioning a Virtual Private Network" on behalf of eTunnels Inc. I have had day to day carriage of these matters from August 2000 and as such have knowledge of the matters to which I hereinafter depose.

2. This Declaration is being submitted in support of and attached to a Petition under 37 C.F.R. §1.47(a) for the above-identified patent application.

3. On August 20, 2001, an application for a U.S. Continuation-In-Part patent was filed, serial number 09/932,461 (hereinafter "CIP Application"). The CIP Application was filed in the names of Gersham Meharg, M. Skye Poier, and Alexandre Pankratov, each of whom is an inventor in the above noted application.

4. The CIP Application includes the subject matter of two previously filed U.S. patent applications as well as newly disclosed subject matter.

5. On September 24, 2001, a Notice to File Missing Parts document was issued by the United States Patent and Trademark Office. The CIP Application was filed without an executed Declaration and Power of Attorney document. In order to advance this application, such a document must be filed.

6. On November 14, 2001, an envelope was sent from Orange & Chari by both registered mail and Federal Express courier service to M. Skye Poier at the address of: 333 East 13th Avenue, Vancouver, British Columbia, V5T 2K6, which is the last known address for him. I prepared the correspondence enclosed in the envelope that was signed by Grant Tisdall for John R.S. Orange. The envelope included a Declaration and Power of Attorney to be executed and returned for filing in the United States Patent and Trademark Office and a copy of the application as filed. Attached as Exhibit 1 is a copy of the correspondence as sent to M. Skye Poier and a copy of the customer receipt for the registered mail.

7. A tracking system operated by Canada Post and available over the Internet at www.canadapost.ca shows that on November 19, 2001 the registered mail item sent to the address mentioned in Paragraph 6 was "forwarded to the customer's new address". Attached as Exhibit 2 is a copy of the delivery status for the registered mail item.

8. On December 6, 2001, the courier package was returned to Orange & Chari as undeliverable. Attached at Exhibit 3 is a copy of a letter from FedEx detailing the attempts of the courier company to deliver the package.

9. On December 13, 2001, I telephoned Richard Couvrette of Canada Post regarding the status of the delivery of the registered package. Mr. Couvrette started a trace on the registered package and was unable to disclose the new address of the intended recipient, as that information is unavailable to him.

10. On December 13, 2001, I telephoned M. Skye Poier directly at his listed phone number in the Canada 411 White Pages (604-685-2466) to request his signature on the Declaration and Power of Attorney and to confirm receipt of the documentation delivered. The phone number is no longer in service. Attached as Exhibit 4 is a copy of the phone listing.

11. On December 19, 2001, I telephoned Canada Post to inquire on the status of the trace. On speaking with Steph LePage at Canada Post, no further progress has been made tracking the package since the package was indicated as forwarded to the new address.

12. On December 27, 2001, I telephoned directory assistance for the Greater Vancouver area (604-555-1212) to request a new listing for a Skye Poier, S. Poier, or M. Poier, no listings were found.

13. I do verily believe that every diligent effort has been made to obtain an executed Declaration and Power of Attorney from M. Skye Poier.

14. I make this statutory declaration for no improper purpose.

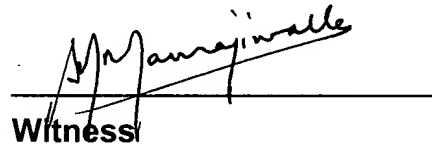
15. The attached Exhibits 1-4 are true copies.

DECLARATION IN LIEU OF OATH

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon. Executed on this 22nd day of January 2002.


J. Erin Long

Date: Jan 22, 2002


Witness

Date: Jan 22, 2002

ORANGE & CHARI
PATENT & TRADEMARK AGENTS

Suite 4900, P.O. Box 190
Toronto Dominion Bank Tower, 66 Wellington Street West
Toronto, Ontario M5K 1H6, Canada
Tel: (416) 601-8440 Fax: (416) 601-8454

John R.S. Orange
Direct Dial: (416) 601-8446
jorange@orpat.com

VIA REGISTERED MAIL AND COURIER

November 14, 2001

Our File: 00397-0008

M. Skye Poier
333 East 13th Avenue
Vancouver, British Columbia
CANADA V5T 2K6

Dear Mr. Poier:

Re: US Patent Application No. 09/932,461
For: **Method and Apparatus for Data Communication Between a Plurality
of Parties**
Filed: August 20, 2001
Assignee: eTunnels Inc.

We have been appointed by eTunnels Inc. to represent them in the above-referenced patent application.

On August 20, 2001 the patent application entitled "Method and Apparatus for Data Communication Between a Plurality of Parties" was filed in the United States Patent Office and assigned Application No. 09/932,461. You were named as an inventor on this application. I have enclosed a copy of the above-referenced patent application as filed for your review.

In order to comply with the Patent Office requirements, we are required to file a Declaration signed by all inventors. We enclose a copy of such document and would ask you to sign and date same and return it to us at your earliest convenience. This request is being made pursuant to Assignment documents pertaining to the two previously filed US applications from which the CIP application claims priority. In respect to the previously filed applications, you executed an assignment on March 2, 2000 relating to the US application 09/640,795 filed on August 18, 2000 and executed a further assignment on October 23, 2000 relating to the US application 09/660,245 filed on September 12, 2000. Copies of the executed assignment documents are enclosed.

Please note, our request to execute the enclosed Power of Attorney document pertaining to "A Method and Apparatus for Data Communication Between a Plurality of Parties" is further made pursuant to the Employee Non-Disclosure and Non-Competition Agreement Contract executed by you on or about June 14, 1999 wherein it conveys to the Company sole and exclusive rights in

any Intellectual Property including all copyrights, patents, patentable subject matter, industrial designs and confidential, proprietary or trade secret information developed during your employment, such that you would have no legal or equitable interest therein. A copy of this contract is also enclosed for your records.

Please note that the deadline to respond to the Patent Office request is **November 24, 2001**. Accordingly, please have the enclosed Power of Attorney document returned at your earliest convenience.

We would like to file these documents with the United States Patent and Trademark Office on **November 23, 2001**. For your convenience, we have enclosed a stamped pre-addressed envelope for returning the documents to us. If you have any questions, please do not hesitate to call me or my associate J. Erin Long at (416) 601-8449.

Yours very truly,
ORANGE & CHARI



for: John R.S. Orange

JRSO/JEL/sm
/enclosures

c. Scott Homenick
Corporate Development Officer

Docket No.
00397-0008

Declaration and Power of Attorney For Patent Application

English Language Declaration

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

METHOD AND APPARATUS FOR DATA COMMUNICATIONS BETWEEN A PLURALITY OF PARTIES

the specification of which

(check one)

☐ is attached hereto.

☒ was filed on August 20, 2001 as United States Application No. or PCT International Application Number _____ and was amended on _____

(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Not Claimed

(Number)

(Country)

(Day/Month/Year Filed)

☐

(Number)

(Country)

(Day/Month/Year Filed)

☐

(Number)

(Country)

(Day/Month/Year Filed)

☐

I hereby claim the benefit under 35 U.S.C. Section 119(e) of any United States provisional application(s) listed below:

_____	_____
(Application Serial No.)	(Filing Date)
_____	_____
(Application Serial No.)	(Filing Date)
_____	_____
(Application Serial No.)	(Filing Date)

I hereby claim the benefit under 35 U. S. C. Section 120 of any United States application(s), or Section 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, C. F. R., Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

09/640,795	August 18, 2000	Pending
_____	_____	_____
(Application Serial No.)	(Filing Date)	(Status)
		(patented, pending, abandoned)
09/660,245	September 12, 2000	Pending
_____	_____	_____
(Application Serial No.)	(Filing Date)	(Status)
		(patented, pending, abandoned)
_____	_____	_____
(Application Serial No.)	(Filing Date)	(Status)
		(patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. *(list name and registration number)*

George A Metzenthin

25,534

Send Correspondence to: **Cahn & Samuels**
2000 P Street, NW
Suite 200
Washington, DC 20036 United States

Direct Telephone Calls to: *(name and telephone number)*
George A. Metzenthin (202) 331-8777

Full name of sole or first inventor Gersham Meharg	
Sole or first inventor's signature	Date
Residence 1035 Expo Boulevard, Vancouver, British Columbia V6Z 2W1, CANADA	
Citizenship Canadian	
Post Office Address Same As Above	

Full name of second inventor, if any M. Skye Poier	
Second inventor's signature	Date
Residence 333 E. 13th Avenue, Vancouver, British Columbia V5T 2K6, CANADA	
Citizenship Canadian	
Post Office Address Same As above	

Full name of third inventor, if any Alexandre Pankratov	
Third inventor's signature	Date
Residence 6175 Nelson Avenue, Burnaby, British Columbia V5H 4E7, CANADA	
Citizenship Canadian	
Post Office Address Same As Above	

Full name of fourth inventor, if any	
Fourth inventor's signature	Date
Residence	
Citizenship	
Post Office Address	

Full name of fifth inventor, if any	
Fifth inventor's signature	Date
Residence	
Citizenship	
Post Office Address	

Full name of sixth inventor, if any	
Sixth inventor's signature	Date
Residence	
Citizenship	
Post Office Address	



Registered **Recommandé**
Domestic **Régime intérieur**



397-8

To **Destinataire**

Name **Nom**
M. Skye Poier

Address **Adresse**
333 East 13th Avenue

City **Ville** Province **Code postal**
Vancouver, BC V5T 2K6

FOR DELIVERY
CONFIRMATION

POUR CONFIRMER
LA LIVRAISON

1 888 550-6333

www.canadapost.ca

www.postescanada.ca

Declared **Valeur**
Value **déclarée** ▶ \$

Item No. **N° de l'article**

78 458 225 241

CUSTOMER RECEIPT

REÇU DU CLIENT

33-086-584 (98-10)

TRACK A PACKAGE

Close Window

Item Number Entered: 78458225241

Last Delivery Status

The item was forwarded to the customer's new address.

Last CPC Location: VANCOUVER, BC

Date / Time: November 16, 2001 AM



Trace History

Date / Time	Municipality	Prov.	Delivery Event Description
November 14, 2001 14:27	TORONTO	ON	The item has been received by CPC.
November 16, 2001 08:03	VANCOUVER	BC	The item was sent out for delivery to the customer.
November 16, 2001 AM	VANCOUVER	BC	The item was forwarded to the customer's new address.

Please allow one business day for our systems to be updated.

A verbal Delivery Confirmation may also be obtained through our automated response system by calling 1 888 550-6333, 24 hours per day, 7 days per week

Our Customer Service Representatives are available Monday to Friday 8:00 a.m. to 6:00 p.m. local time.





Express

January 17, 2002

RECEIVED

JAN 21 2002

82

David Gondwe
McCarthy Tetrault
55 King St W 44th Floor
TD Bank Tower
Toronto, Ontario
M5K1E6

Dear David Gondwe:

This concerns the November 14, 2001 shipment sent from your company to Skye Poier in Vancouver, Canada on air waybill 829614023440.

Our records indicate the FedEx courier attempted delivery and discovered the recipient was no longer at the location listed. The recipient's telephone number was not provided. A Customer Representative found the recipient's number and placed a call and was informed that telephone number was no longer in service. The Customer Representative then placed a call to the shipper to inform them of our inability to complete delivery due to inaccurate information. The shipper was asked to contact FedEx with updated information complete delivery. FedEx was not contacted with updated information, consequently, the shipment was returned to the shipper.

We appreciate your business and, look forward to serving your future shipping needs. If you have any questions regarding this air waybill, please do not hesitate to contact me.

Sincerely,

Charmayne Tate
Senior Customer Representative
1-800-463-3339



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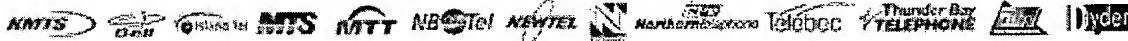
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